Before the
Federal Communications Commission
Washington, D. C.

In the Matter of	)	WC Docket No. 05-337
High Cost Universal Service Support	)	
Federal-State Joint Board on	)	CC Docket No. 96-45
Universal Service	)	

COMMENTS OF THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

May 31, 2007

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The Public Service Commission of the State of Missouri ("MoPSC") offers the following comments in response to the Public Notice ("Notice") released on May 1, 2007, in which the Federal-State Joint Board ("Board") seeks comment on long term, comprehensive high-cost universal service reform.

I. Executive Summary

The universal service fund is experiencing significant strain. Long-term efforts must be developed to rein in the explosive growth of high-cost universal service support ("USF"). The MoPSC commends the Board for undertaking this task and encourages it to act promptly in making its recommendation for reform to the Federal Communications Commission ("FCC").

The MoPSC supports comprehensive reform that promotes universal service and is consistent with the goals of the Telecommunications Act ("Act") of 1996. The MoPSC suggests the first step to reform is to define "universal" service. Once the scope of the fund is defined, the structure of the USF must be reviewed. Reform, whether through reverse auctions or some other means, must direct the support to the areas and customers in need and should not be guaranteed to all current recipients. Cost structures should be forward-looking and should be based on the USF recipient's own costs. A majority of the MoPSC encourages the Board to establish a basic local benchmark rate that must be met before a carrier receives USF. Any inclusion of broadband services in the definition of qualified services must contain clear requirements, including specific transmission speeds and roll-out commitments. Finally, efforts for reform should include a more refined and standardized annual certification process and should include strict oversight to ensure compliance.

II. Overarching Comments

The MoPSC supports comprehensive efforts to reform and stabilize the high-cost universal service fund support. Any efforts to achieve sustainability must also continue to meet the goals of Act which offers the following policies for the preservation and advancement of universal service[1]:

A. Quality services at just, reasonable, and affordable rates;

B. Access to advanced telecommunications and information services;

C. Access to telecommunications and information services in all regions of the Nation at rates that are reasonably comparable to rates charged for similar services in urban areas;

D. Equitable and nondiscriminatory contributions by all providers of telecommunications services;

[1] 47 U.S.C. 254(b)

E. Specific, predictable and sufficient Federal and State mechanisms to preserve and advance universal service;

F. Access to advanced telecommunications services for schools, health care and libraries; and

G. Additional principles deemed necessary.

As a matter of public policy, the first step to ensuring the long-term sustainability of high-cost universal service support is to define "universal". The universal service principles originally applied to basic local telecommunications service, and included access to local emergency services. As technologies evolve, consumers are supplementing or replacing traditional wireline service with not only wireless service, but also broadband services and Voice over Internet Protocol ("VoIP") services. The question now becomes - Should consumers not only have "universal" access to wireline services, but also "universal" access to wireless, broadband and/or VoIP services? To answer that question, the Board must determine which services are a necessity and which services are optional. Once "universal" is defined, the structure of the USF must be reanalyzed. The USF is experiencing significant strain, with high cost disbursements increasing almost $2 billion over the past five years.[2] (Since fiscal year 1999, the high cost support mechanism has doubled, with disbursements approximating: $1.7 billion in 1999; $1.9 billion in 2000; $2.6 billion in 2001; $2.8 billion in 2002; $3.3 billion in 2003;

[2] Report and Order and Notice of Proposed Rulemaking. WC Docket 06-122. Released June 27, 2006.

$3.4 billion in 2004[3] and $4 billion today[4].) Much of this growth is attributed to increased support provided to competitive ETCs ("CETCs"), while support to ILECs has been characterized as remaining flat or even declining.[5] It appears that prior to the release of the FCC's March 2005 ETC order, many competitive companies were granted ETC designation with little or no oversight. Nearly $1 billion was disbursed to CETCs in 2006.[6] While the number of CETCs has increased rapidly over the past few years, the responsibility for the state of the fund cannot be placed solely on competitors. To achieve comprehensive reform the Board must consider the current support attributable to incumbents as well as support to competitors. There must be a determination, and corresponding accountability, that USF is needed to advance universal service goals. The focus for reform should be on providing or maintaining "universal" service to those *customers* needing access to service consistent with the goals of the Act, not on preserving revenue streams for a particular carrier, technology or study area.

The MoPSC is not suggesting carriers should be denied the opportunity to recover current revenue amounts. The majority of the MoPSC, on various occasions, has suggested the FCC establish a national benchmark for basic local rates, requiring carriers to meet that benchmark before providing USF subsidies.

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[3] Notice of Proposed Rulemaking and Further Notice of Proposed Rulemaking. *In the Matter of Comprehensive Review of Universal Service Fund Management, Administration, and Oversight, et al.* WC Docket No. 05-195, et al. Released June 14, 2005. par. 44 and fn 99.
[4] Recommended Decision. *In the Matter of High-Cost Universal Support, Federal-State Joint Board on Universal Service*. WC Docket No. 05-337 and CC Docket No. 96-45. Released May 1, 2007. Par. 4.
[5] Id.
[6] Id at page 16.

By requiring carriers to recover a larger portion of its existing revenue stream from basic local service rates, the onus shifts to the telecommunications company and its customers. Further, end users in higher cost areas would contribute a more reasonable amount toward the recovery of the costs of serving such areas before spreading those costs across all end-users.

Section 254 of the Act states that consumers in all regions should have access to telecommunications and information services that are reasonably comparable to those services provided in urban areas and are available at rates that are reasonably comparable.[7] To achieve comparability in basic local rates, the majority of the MoPSC supports a national benchmark for local exchange network cost recovery. The Expanded Portland Group ("EPG"), in its intercarrier compensation proposal[8], provided reasonable justification for establishing a benchmark in this framework, although its analysis specifically addressed an Access Restructuring Charge. For instance, the EPG says:

> To qualify for full [cost recovery] funding, the sum of the company's basic residential rate and its residential and single line business SLC must be greater than or equal to a "benchmark" level of $21.07.

The EPG further states:

> In order to qualify for full [cost recovery] funding, the sum of the carrier's basic residential rate and its residential and single line business SLC would need to be at or above a "benchmark" level of $21.07. If a carrier's combined rates were below this level, the carrier's draw [for cost recovery] would be reduced by the amount that such rates were below the benchmark, multiplied by the number of lines.

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[7] 47 U.S.C. 254(b)(3)

[8] *In the Matter of Developing a Unified Intercarrier Compensation Regime*. CC Docket No. 01-92. November 2004.

Finally, the EPG states:

> In creating [cost recovery] we recognize that some states have progressed more quickly than others in lowering intrastate access rates, and increasing cost recovery from end user rates and from state universal service funds. If the [fund] were to be implemented without some consideration of the degree to which states have rebalanced rates, then there could be an issue of equity among the states. States that had progressed further with rate rebalancing would be penalized, and states that had not would be unjustly rewarded unless some mechanism is implemented to account for this. To address this issue, the EPG Plan proposes that a "benchmark" price level be established for computation of [cost recovery]. Specifically, the EPG Plan proposes a benchmark of $21.07 per line be established for the sum of basic rate (including non-optional EAS charges) and the federal SLC. Companies where the sum of the basic and SLC was less than $21.07 would face a reduction of [USF] funding that they might otherwise qualify for…[9]

Without commenting on the appropriateness of setting the benchmark at $21.07, the majority of the MoPSC agrees[10] that by requiring carriers to increase basic local rates, less recovery is needed from what ultimately is portrayed as "governmentally approved or authorized" subsidies such as the subscriber line charge or the USF surcharge.

The Board should also limit the amount of USF support applicable to each household. While Congress expressly prohibited the "primary line" designation

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[9] EPG's *Comprehensive Plan For Intercarrier Compensation Reform*, Nov. 2, 2004, (EPG Proposal), attached to Letter from Glenn H. Brown, EPG Facilitator, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 01-92 (filed Nov. 2, 2004).

[10] MoPSC Commissioner Steve Gaw believes that revenue recoveries should not be allowed through end user "governmentally approved or authorized" surcharges, but disagrees with any suggestion that basic local rates should be increased to achieve carrier revenue neutrality. This Commissioner believes no plan should result in basic local rates for rural customers that are higher than the non-rural rates for similar services and calling scopes. Furthermore, funding for the USF should not be placed disproportionately on rural customers since doing so would be contrary to the purpose of the fund and the goals of the Act, namely ensuring more uniformity in telecommunications service regardless of geographic location.

whereby only the carrier providing the "primary" service to the customer would receive USF, limitations could be placed to reduce the number of qualifying lines. Under the current regime, carriers receive support for each line serving a household (multiple wireline lines, multiple wireless lines). In an environment when end users are subscribing to "family plans" with as many as five handsets or lines attributable to one customer, the implications to the size of the USF could be phenomenal since carriers may receive per line support for each handset or line within its study area.

III. Reverse Auctions

In the Notice, the Board seeks comment on the specific auction proposals of CTIA – The Wireless Association, Verizon and Alltel. Each proposal will be summarized below with the MoPSC's general comments on all proposals following the summaries.

III. A. CTIA – The Wireless Association

In its reply comments, CTIA urges the Board to ensure that any reverse auction process does not discriminate against mobile wireless carriers. CTIA supports competitively-neutral reverse auctions and suggests they are an economically efficient and effective way to achieve universal service objectives. In support of its comments, CTIA attached an economic paper prepared by CostQuest[11]. In its paper, CostQuest states literature broadly supports auctions as a valid mechanism

[11] Reply comments of CTIA – The Wireless Association®, *In the Matter of Federal-State Joint Board on Universal Service Seeking Comment on the Merits of Using Auctions to Determine High-Cost Universal Service Support.* WC Docket No. 05-337 and CC Docket No. 96-45.

for allocating resources when the bidding is reasonably competitive. This statement is a key concept and the MoPSC questions the viability of auctions in areas that remain unserved or underserved since, by characterization, these are areas that traditionally lack competition. CostQuest cites several instances where reverse auctions have proven effective. However, as CostQuest notes, "In most instances, identification of locations for possible subsidy payments was based, at least in part, on information about possible consumer needs."[12] In other words, the successful reverse auctions were not held simply for the sake of guaranteeing existing service, but were needs-based. CostQuest provides distinct differences between these success stories and the situation in the United States, for instance: teledensity, telephone penetration and per capita GDP were much lower than in the US and the primary focus was to encourage infrastructure investment where none currently exists as opposed to providing a subsidy for past and future investments.

III. B. Verizon

In its proposal, Verizon supports a separate, "reasonable" cap on wireless and wireline support. Verizon suggests there should first be wireless auctions, with wireline auctions only in areas with multiple wireline competitors. A reserve amount, or maximum bid would be established at the current funding level to control future growth of the fund. Once an auction is awarded to an area, the results would be applied to areas that did not qualify for auctions. Verizon also suggests it may be appropriate for the bid to be awarded via a flat support amount –

[12] Id at Attachment page 10.

if costs exceed the bid, the company does not get any further support; if costs are less than the award, the company receives a bonus.[13]

III. C. Alltel

Alltel's proposal is generally a broadband proposal and will be addressed in more detail under section VII below. However, Alltel identifies three key problems which are important when addressing USF reform: 1. Incumbent carriers are reimbursed based on embedded costs; 2. Non-rural carriers receive little or no support despite maintaining potentially high-cost areas; 3. USF is distributed at the study area level as opposed to directing support to the high-cost portions of a study area. Alltel also expresses concerns with the idea that the National Exchange Carriers Association ("NECA"), an entity with a vested interest in incumbent local exchange carriers, is the "only entity that processes and reviews the data that determine the amounts of HCL, LSS, and ICLS universal service finding disbursed in rural ILEC study areas."[14]

III. D. MoPSC reverse auction comments

In a reverse auction, sellers compete for the right to provide a good or service. In this case, competing carriers would vie for the right to receive federal support to provide "universal" service applicable to the provision, maintenance and upgrade of facilities and services. The concept of reverse auctions should limit total high-cost

[13] Letter from Kathleen Grillo, Vice President Federal Regulatory, Verizon, to Deborah Taylor Tate, Federal Chair and Ray Baum, State Chair, Federal-State Joint Board on Universal Service. February 9, 2007.
[14] Letter from Gene DeJordy, Vice President Regulatory Affairs, Steve R. Mowery, Vice President Public Policy, and Mark Rubin, Vice President Federal Government Affairs, Alltel, to Deborah Taylor Tate, Federal Chair and Ray Baum, State Chair, Federal-State Joint Board on Universal Service. February 16, 2007. pg 9.

support since only a fixed number of carriers would receive funding at any given time. Unfortunately, the MoPSC suggests the logistics of managing such a fund are considerable.

The Verizon and Alltel proposal pose specific concerns for the MoPSC. For instance, each proposal suggests a "maximum" bid or cap be established based on current high-cost support funding level. While it is an admirable goal to rein in the growth of the fund, it is not reasonable to assume the existing USF balance of $4 billion is the appropriate starting benchmark. Before guaranteeing any "maximum" or capped amounts, the Board must ensure the fund acts in a fiscally responsible manner. This is particularly important in study areas where multiple carriers have been granted ETC designations and have been receiving support based on the costs of the incumbent. There must be an assurance that the funding received or guaranteed is supported by the costs of serving the area to be auctioned.

While the MoPSC agrees that any reverse auction proposal must be technologically neutral, the MoPSC disagrees with commenters that support should be guaranteed to at least one wireline and one wireless ETC per study area. Much of the United States already has at least one wireline provider and one wireless provider. For instance, nationwide wireline penetration rates average 92.9 percent, ranging from a low of 86.8 percent in Georgia to a high of 97 percent in Utah.[15] Similarly, over 98% of the United States population can choose from at least three

[15] "Telephone Subscribership in the United States (Data through November 2005)". Alexander Belinfante, Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission. Released May 2006.

wireless providers.[16] Efforts should be made to target those areas in need of service, while encouraging providers to bring competition to areas with high penetration rates but low competition rates. In many rural areas, the wireless provider may be the only true competition for the incumbent provider. Research shows that bids are frequently awarded to incumbent suppliers (in this case incumbent local exchange carriers) even if prices are higher than the lowest bids, because there will be little or no additional costs associated with maintaining the same support recipient.[17] This trap should be avoided by awarding USF support to the bidder with the most favorable proposal for the consumer and the long-term sustainability of the USF. This should also encourage competitors to enter markets and bid for the funds necessary to serve the market.

Another concern with the reverse auction concept is the amount of time a carrier would be guaranteed to receive funding. Any carrier eligible to bid on USF support must already have received designation as an eligible telecommunications carrier and such designation must be tied to achieving certain commitments. The Act specifies an important role for state commissions in the designation of carriers eligible to receive universal service support. This process should continue, as state commissions are in the best position to review the public interest standards surrounding requests for ETC designation. Any review process should be designed

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[16] "Report to Congress – Eleventh Annual CMRS Competition Report". Wireless Telecommunications Bureau, Federal Communications Commission. September 26, 2006.

[17] http://www.theclbm.com/research.html

to deter waste and avoid fraudulent use or misuse of the funds. The state commission is in the best position to monitor ETC designation and the receipt of funds to determine if carriers are complying with all commitments. If a carrier is not meeting its obligations, the support could flow to the next lower bidder, or the auction process could start again.

In order to encourage investment, a carrier must be guaranteed support for an extended period of time to provide a degree of assurance it can recover costs. Few carriers will invest in an area if support is only guaranteed on a year-by-year basis. Therefore, the MoPSC suggests any implementation of a reverse auction plan allow a carrier to be guaranteed support for at least five years before the auction is reopened for any given area. Current proposals lack any plan for accountability; therefore, this guarantee is contingent upon strict oversight to ensure compliance with commitments and to avoid fraudulent use or abuse of USF monies. A more defined annual certification process should be developed and required. Certification processes should be standardized so that USAC, NECA, state commissions and/or the FCC review the same substantive information prior to releasing USF support.

In order to promote competition, the carrier must also be willing to accept carrier of last resort obligations to demonstrate its willingness to deploy facilities and serve an area. Supported providers should be required to meet specific quality of service obligations and should be subject to enforcement actions and penalties for failure to meet those requirements. Most wireline carriers are currently subject to federal or state oversight on quality of service issues. However, as evidenced by the 4,000 complaints[18] registered against wireless carriers in the second quarter of 2006, service quality and billing issues remain a matter of high priority to consumers with respect to wireless carriers. The auction selection should be technologically neutral, with any winner subject to the same type of standards as all other bidders. Failure to perform should be subject to penalties and state commissions should have clear authority to review and determine such matters as they relate to USF certifications. Once again, state commissions are closer to the consumer and the needs of the state and are in the best position to develop and monitor quality of service standards and consumer complaint issues for USF recipients.

Since there should be no guarantee the winning bidder will be the carrier(s) currently receiving USF support for a given area, the MoPSC suggests a transition period must be established. The transition period must be minimal and only apply in the start-up phase of the auction process. In other words, a carrier should not be ensured some sort of transition period after winning the bid, receiving funds for the funding period and then losing the subsequent re-bid.

In short, the MoPSC has several concerns with a reverse auction process. However, if the Board is inclined to recommend such an approach to USF reform, the MoPSC suggests winners cannot be selected on price alone. A carrier that submits the lowest bid may be able to submit such a bid because it has little intention of serving unserved or underserved areas or improving coverage and

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[18] Statement of Commissioner Deborah Taylor Tate, *Re: Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993;* Annual Report and Analysis of Competitive Market Conditions With Respect to Commercial Mobile Services, Eleventh Report.

service in existing areas. Selection must be based on price and the commitments the carrier is willing to make. The bid selection process should be designed to best serve the needs of consumers, not the carrier, and should enhance services and promote competitive choice. Therefore, a carrier must commit to the Board and FCC established minimum compliance standards before that carrier's bid is considered. Once the auction process is in place for a few cycles, the bid selection should also be based on a carrier's track record in quality of service issues and in meeting commitments before a carrier can be considered for any re-bid award.

IV. Efficiently Targeting Support

In this section of the Notice, the Board seeks comment on how GIS technology and/or network cost models could be used to efficiently target support at more granular levels. On numerous occasions, the MoPSC has promoted the idea of appropriately targeting USF. The majority of the MoPSC also supports a USF scheme that is based on forward-looking economic costs.

IV. A. GIS Technology

Section V presents the MoPSC's views on disaggregating support to a level that more appropriately targets USF to areas in need. GIS technology could be used to accomplish this objective. The Board directs commenters to the presentation of Dr. Brian Staihr[19] for a discussion of calculating support at the sub-wire center level. Dr. Staihr's presentation provides a few examples of the effect of targeting support. For instance, in Fort Meade, Florida, the wire center investment is $2,650 per line,

[19] Public Notice at footnote 14.

or $7.7 million. By targeting the support to the areas outside the city limits - a less dense, higher cost area – the investment increases to $6,820 per line, but only $4.8 million for the sub-wire center. As discussed more fully below by directing support to the sub-wire center or study area level, USF is targeted to areas where support is needed to meet the goals of universal service and the Act; thus, promoting a more efficiently operated USF.

IV. B. Network cost models

The United States Court of Appeals, when reviewing the FCC's directive in the *First Report and Order,* found:

> [F]orward-looking costs have been recognized as promoting a competitive environment which is one of the stated purposes of the Act. The Seventh Circuit, for example, explained, "[I]t is current and anticipated cost, rather than historical cost that is relevant to business decisions to enter markets…historical costs associated with the plant already in place are essentially irrelevant to this decision since those costs are 'sunk' and unavoidable and are unaffected by the new production decision." MCI Communications v. American Tel. & Tel. Co., 708 F.2d 1081, 1116-17 (7th Cir. 1983), cert. denied, 464 U.S. 891 (1983). Here, the FCC's use of a forward looking cost methodology was reasonable. The FCC sought comments on the use of forward-looking costs and concluded that forward-looking costs would best ensure efficient investment decisions and competitive entry. See First Report and Order ¶ 705[20]

Further, in its NPRM on TELRIC, the Commission stated:

> Forward-Looking Cost. **A forward-looking costing methodology considers what it would cost today to build and operate an efficient network** (or to expand an existing network) that can provide the same services as the incumbent's existing network. The benefit of a forward-looking approach is that it gives potential competitors efficient price signals in deciding whether to invest in their own facilities or to lease

[20] Iowa Utils. Bd., et al. v. FCC, 219 F.3d 744 (8th Cir. 2000).

> the incumbent's facilities. That is, if construction of new facilities by a competitive LEC would cost less than leasing facilities at prices based on FLEC, the efficient result is for the new entrant to build its own facilities. Assuming that the modeling method is accurate, **a forward-looking cost approach more closely approximates the costs that would exist in a competitive market than does an historical cost approach by revealing potential efficiencies that might not otherwise be apparent.** (footnotes omitted, emphasis added.)[21]

The same concepts should apply to USF reform. Support disbursements should be based on costs that more closely approximate a competitive market to ensure the goals of the Act are met – quality service at just, reasonable and affordable rates that are comparable to the rates available in densely populated areas. GIS technology or cost models that achieve these goals should be a part of USF reform activities.

V. Disaggregation of Support

In the Rural Task Force Order, the FCC adopted a plan that provides three paths for the geographic disaggregation and targeting of USF. Appropriately, disaggregation targets support to regions within a study area that are more costly to serve. However, when given the opportunity and consistent with the statements in the Notice, the majority of Missouri rural carriers chose not to disaggregate support. The Notice asks if carriers should be given another opportunity to disaggregate support below the study area or wire center level, or in the alternative, should the FCC mandate disaggregation. The MoPSC supports a mandate that

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[21] *Notice of Proposed Rulemaking*, In the Matter of Review of the Commission's Rules Regarding the Pricing of Unbundled Network Elements and the Resale of Service by Incumbent Local Exchange Carriers. WC Docket No. 03-173. September 10, 2003.

USF be targeted to areas below a study area or wire center level. The MoPSC also supports targeting USF to "high-cost, rural *areas with a need*" as opposed to "high-cost, rural companies".

The MoPSC has commented in other proceedings that USF support should be targeted to areas that need support and should not be guaranteed to any particular classification of carrier. For instance, CenturyTel of Missouri and Spectra Communications Group, LLC, d/b/a CenturyTel have over 400,000 access lines and Embarq Missouri, Inc. has over 200,000 access lines. Both companies are considered rural companies for USF support. (It should be noted that certain CenturyTel study areas are considered non-rural. However, for the most part, the company is considered rural in Missouri.) In contrast, AT&T Missouri, with over 2 million access lines, is a non-rural company receiving no high cost support. Although AT&T Missouri serves the larger metropolitan areas of the state, many AT&T Missouri exchanges are similarly situated to rural exchanges of CenturyTel and Embarq. Carriers should not be guaranteed support just because they qualify as "rural" carriers and support should not be guaranteed to an area just because it meets the definition of a rural, high cost area. Some high cost areas comprise very affluent developments or communities. Other high cost areas have successfully deployed essential services so carriers are upgrading their networks with facilities that provide voice, data and video over the same line. Such areas should not automatically be considered "high cost" areas qualifying for USF. Therefore, the

MoPSC supports targeting USF high cost support to rural areas in need of support to fully achieve the goals of the Act and "universal" service.

VI. Competitive ETC Support

The Board seeks comment on whether the FCC should replace the current identical support rule with a requirement that CETCs demonstrate their own costs before receiving support. The Board also seeks input on designating multiple ETCs in an area.

A CETC receives support for each line it serves in a particular service area based on the support the incumbent would receive for such line. The MoPSC agrees this concept must be abandoned. The Board suggests this rule appears to be one of the primary causes of the explosive growth of the USF.[22] While the identical support rule may be a key driver of the uncontrolled growth of the fund, the size of the USF is further exacerbated when incumbents continue to receive the same support amount for an area despite the loss of lines. Therefore, it is imperative that the Board not only abandon the identical support rule, but also remove any possibility for a carrier to continue to receive support for lost lines. Any support received should be based on the recipient's cost to serve an area, and as previously stated, should be based on a forward-looking cost methodology.

The MoPSC also supports limiting the number of carriers that are eligible to receive support in a given area. The reverse auction proposal would be an effective

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[22] Recommend Decision. *In the Matter of High-Cost Universal Support, Federal-State Joint Board on Universal Service*. WC Docket No. 05-337 and CC Docket No. 96-45. Released May 1, 2007. Par. 12.

means of attaining such limitations. Beyond a bidding process, the MoPSC suggests it will be very difficult to curb the number of providers that should serve an area. For instance, does such a limitation without a competitive bid process reward "first mover" advantages? How will the FCC or a state commission determine the first provider to seek for ETC designation in an area is the best carrier to serve that area? What happens if a "better" competitor expresses interest in an area after the maximum ETC designations have been granted for a given area? In order to make a true determination of the appropriate carrier(s) to serve an area the FCC or state commissions would need to compare all potential providers at the same time and on a level playing field. This creates a situation of "speak now or forever hold your peace" - we have a request for an area, anyone interested must apply at this time for proper consideration.

VII. Broadband Service

The Board seeks comment as to whether broadband services should be added to the list of supported services. The Act seems to contemplate the addition of broadband services since one of its goals is to promote access to advanced telecommunications and information services.[23] Further, the MoPSC suggests carriers are already finding creative, yet legal, ways to deploy broadband using the existing funding formulas and definition. On April 8, 2005, Alma Communications Company, d/b/a Alma Telephone Company ("Alma") filed an application seeking authority to borrow $5,579,000 from the Rural Utility Service Administration

[23] 47 U.S.C. 254(b)(2)

("RUS") in order to upgrade its network and purchase a new switch. Alma is a small, rural incumbent local exchange carrier with approximately 350 customers. Alma last updated is subscriber lines and plant in 1972 and purchased its switch in 1992. Alma intended to install a next generation "soft switch" with IP technology and planned to replace existing loops and plant with fiber. With the exception of a few technical specifications, Alma will be 100 percent fiber to the home upon completion of the project. The MoPSC would like to share the following responses Alma provided to MoPSC questions on the details of the financing.

MoPSC Question:

> "How is the company going to repay this loan if the loan amounts to approximately $16,000 per customer? Will Alma get more USF to help pay for this?"

Alma's Response:

> "Alma understands the $16,000 figure represents per customer recovery over 5 years. The loan period exceeds 20 years, so this figure appears to be somewhat overstated. The increased revenue needed to repay this loan will primarily come from increases in Federal USF support. Alma will convert from a National Exchange Carrier Association (NECA) average schedule to a cost company. This conversion, and the new switch and fiber investment are **calculated to increase Alma's Federal USF Support payment by more than $600,000 per year by 2007**. This increased USF support is a part of the financial analysis upon which the RUS loan application was submitted and approved, upon which this loan application was submitted, and upon which Staff's recommendation was based."[24] (emphasis added)

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[24] Alma Telephone Company Responses to questions arising at June 7, 2005 Agenda. *In the Matter of Alma Communications Company, doing business as Alma Telephone Company, for Authority and Approval to Issue a Note, Loan Agreement, Mortgage, Security Agreement, and Financing Statement to Borrow Funds from the Rural Utility Services of the United States of America, for Interim Financing, and for Section 392.289.2, RSMo (HB 360) Accounting Authority Orders.* TU-2005-0358.

As another example, Northeast Missouri Rural Telephone Company ("Northeast"), a rural incumbent carrier that provides service to fewer than 4,500 customers in fourteen Missouri exchanges recently submitted a request to the MoPSC to adjust its depreciation expense. In its application, Northeast indicated it is in the process of upgrading telephone plant to provide better service to its customers and to add new ADSL broadband customers. In order to meet customer need, Northeast determined numerous DSLAMs would need to be replaced with equipment capable of carrying voice, data and video on a single port. Through the DSLAM depreciation adjustment, Northeast has effectively, and legally, adjusted its expenses used to calculate USF support.

The Alma and Northeast scenarios are indicative of current situations where carriers are able to deploy broadband services under existing USF funding formulas and definitions. Before expanding the definition of supported services to include broadband services, several issues need to be addressed. The FCC currently has pending a broadband notice of inquiry and notice of proposed rulemaking.[25] The MoPSC urges the Board to consider broadband issues as part of USF reform to avoid piecemeal regulation that distorts the efforts of reform. The MoPSC offers

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[25] *In the Matter of Inquiry Concerning the Deployment of Advanced Telecommunications Capability to All Americans in a Reasonable and Timely Fashion, and Possible Steps to Accelerate Such Deployment Pursuant to Section 706 of the Telecommunications Act of 1996*. GN Docket No. 07-45. Released April 16, 2007.

In the Matter of Development of Nationwide Broadband Data to Evaluate Reasonable and Timely Deployment of Advanced Services to All Americans, Improvement of Wireless Broadband Subscribership Data, and Development of Data on Interconnected Voice over Internet Protocol (VoIP) Subscribership. WC Docket No. 07-38. Released April 16, 2007.

the following comments to be considered if it is determined that broadband should be included as a supported service.

First and foremost, disbursements should only be provided in areas with unserved or underserved broadband access. Carriers that have successfully completed broadband deployment should not be reimbursed for network expenses already incurred. The MoPSC suggests there is a disconnect between broadband availability or access and broadband subscribership. To create incentives for "universal" broadband deployment, the goals of the Act[26] must be met. Quality service must be available at just, reasonable and affordable rates, with rural service comparable to urban service. Simply making broadband "available" nationwide does not satisfy the goals of "universal" service.

The Board asks if broadband should be included in the current USF or in a separate, "broadband" fund. The MoPSC suggests it would be ideal to maintain a separate fund to measure true deployment rates. However, this may be logistically impossible. As described in the Alma and Northeast scenarios, carriers are already deploying fiber and digital technology that not only enhances voice service, but allows carriers to provide broadband services. In order to maintain a "broadband" fund the Board and the FCC would need to establish an allocation percentage of costs to voice and broadband. For example, the Board and the FCC might determine that seventy percent of the costs for facilities capable of providing both voice and broadband were attributable to voice, with the remaining thirty percent

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[26] 47 U.S.C. 254

attributable to broadband. That percentage might then translate to funding from the USF versus funding from the broadband fund.

VII. A. Alltel broadband auctions

Alltel recommends a reverse auction pilot program for broadband deployment. In its proposal, Alltel recommends carriers should only receive USF support to extent they provide both broadband and existing USF supported services. Alltel suggests qualifying carriers should commit to serve a percentage of the area at certain speeds and to selected portions of the population by a date certain. Any carrier that agrees to the same commitments and provides both basic and advanced services would receive like funding in an area.

The MoPSC has concerns with a pilot program to test the appropriateness of reverse auctions. For instance, the winning bidder for the pilot would have to be guaranteed funding for a minimum of five years to encourage investment. Five years is a long time to defer broadband deployment goals while waiting to see if the reverse auction is successful.

For reasons stated in Section III, the MoPSC also has concerns with a process that guarantees multiple carriers equal funding without determining each carrier's costs and without enforcing strict guidelines. The MoPSC agrees with Alltel that qualifying carriers should be required to commit to certain transmission speeds and should be required to meet specific roll-out objectives in order to receive USF. Both commitment areas will need to be clearly defined and should be at higher standards than today's principles. For instance, broadband is currently defined as "those services that deliver an information carrying capacity in excess of 200 kbps in at least one direction." With technological advances, this definition is clearly inadequate and equates to service not much faster than dial-up Internet service. A member of the MoPSC is conducting a survey to gain information on broadband deployment in Missouri. Citing lack of jurisdiction, some responders have not been completely forthcoming in providing responses to the survey. A technology-neutral evaluation of broadband availability needs to be conducted. MoPSC initial survey results suggest a significant number of Missouri consumers may not have access to broadband services. Where broadband service is currently available many carriers are capable of offering upload and download speeds in the neighborhood of 1 megabit.

As noted, a few carriers cited lack of jurisdiction as the reason for not providing complete survey results. In a few instances, carriers provided FCC Form 477 data in response. This form documents broadband connections and outlines broadband availability on a zip code basis. While the household connection data may be useful to show the number of connections to various forms of broadband technology, the report is lacking when it comes to targeting broadband availability or subscribership. The report simply indicates a carrier has X number of end user premises connected via asymmetric xDSL. The report does not pinpoint whether all those end users are in the city limits, in one of multiple exchanges, spread out over the state, etc. Further, when the data is broken out by zip code, it simply represents that one service address has access to xDSL in a particular zip code. The data does not correlate the number of end user connections with the zip codes reported. In order to include broadband in supported services and also be able to measure the effectiveness of providing USF to broadband providers, carriers must be required to report more comprehensive data. Further, since state commissions are required to certify carriers for receipt of USF, a practice that should be enhanced and continued, state commissions must be delegated authority for gathering such data.

Respectfully submitted,

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